

**PHARMACY EXAMINING BOARD
SEPT 7, 2005
MEETING MINUTES**

PRESENT: Michael Bettiga, R.Ph.; John Bohlman, R.Ph.; Georgina Forbes, Charlotte Rasmussen; Susan Sutter, R.Ph.; Cynthia Benning, R.Ph.; Fred Moskol, R.Ph.

STAFF: Tom Ryan, Bureau Director; William Black, Legal Counsel; PJ Monson, Bureau Assistant

GUESTS: Rich Verschay; Appointed Pharmacy Board Member; Betty Chewning, Ph.D; Jamie Kinjerski, UW Health/GHC/student; Julie Asmus, Marshland Pharmacy/student; Carol Petersen, Women's Intl. Pharmacy; Michelle Violi, Women's Intl. Pharmacy; Tom Engels, PSW; Jamie Stats Paynter, Dean Pharmacy

CALL TO ORDER

Chair Michael Bettiga called the meeting to order at 9:04 a.m. A quorum of 7 was confirmed.

MOTION: Mr. Moskol moved, seconded by Ms. Forbes, to approve Rich Verschay's attendance in closed session. Motion carried unanimously.

APPROVAL OF AGENDA

Additions:

- Between "B & C" – Proposed New Impairment Order (First Revision)
- Item "C" – Accreditation Council for Pharmacy Education (ACPE) invitation to evaluate the Doctor of Pharmacy program at UW Madison School of Pharmacy
- Item "D" – Clearinghouse Report to Agency
- Item "E" – DEA Reports of Theft or Significant Loss of Controlled Substances
- Between "E & F" - William Black's memo regarding Emergency Dispensing Protocol
- Item "H" – Oct., 2001 Regulatory Digest article relating to pain management
- Item "I" – Aurora Pharmacy Record Retention Policy
- Item "I" – Delivery Variance – Ambulatory Pharmacy Services
- Item "L" – Tech Check Tech letter
- Item "P" – UW Hospital and Clinics letter regarding the installation of drug delivery robots
- Before Item "R" – Stipulation in the matter of Disciplinary Proceedings against Kurt E. Kiesling
- Before Item "R" - Stipulation in the matter of Disciplinary Proceedings against Robert L. Hamilton

Items Removed from Agenda:

- Before Item “H” - Internet pharmacy practices – Wayne A. Michaels, DEA Milwaukee Diversion Group supervisor

MOTION: Ms. Rasmussen moved, seconded by Ms. Benning, to approve the agenda with additions. Motion carried unanimously.

APPROVAL OF MINUTES OF JULY 27, 2005

Amendments to the Minutes:

- Page 1 of 8 – Ms. Sutter announced she will be named as President Elect of the PSW.
- Page 3 of 8 – Conference speaking invitations for the ACPE should read Marshfield Clinic.
- Page 6 of 8 – Ms Sutter reported that 154 Pharmacists were licensed in June.

MOTION: Ms. Benning moved, seconded by Mr. Bohlman, to approve the minutes as amended. Motion carried unanimously.

**PRESENTATION OF PROPOSED STIPULATIONS,
FINAL DECISIONS AND ORDERS
RECEIVED IN THE BUREAU AFTER PREPARATION OF THE AGENDA**

KURT KIESLING, R.Ph.

Jeanette Lytle, Division of Enforcement, appeared before the Board to present the stipulation in the matter concerning Kurt Kiesling, R.Ph.

ROBERT L. HAMILTON

David Hart, Division of Enforcement, appeared before the Board to present the stipulation in the matter concerning Robert L. Hamilton, R.Ph.

DOE DISCIPLINE AND PROCESS IMPROVEMENT

Discussion of quality assurance improvements encountered in the course of the disciplinary process was discussed. In an effort to learn how other states manage quality assurance, Mr. Ryan will contact the NABP for any state comparison information.

DOE MEETING WITH FDA

Update – Eric Callisto, Division of Enforcement:

Eric Callisto and Greg Raube met with the FDA on August 9. Most of the discussion was related to the regulation of medical gases and the possibility of a federally funded inspector available to the Department.

IMPAIRMENT ORDERS

The Board discussed the proposed new impairment order.

MOTION: Mr. Bohlman moved, seconded by Ms. Sutter, to accept the DOE proposed impairment order for use in all future orders. Motion carried unanimously.

ADMINISTRATIVE REPORT

Recognition by the Department and the Board of Susan Sutter's going off the Board and her commitment to the Pharmacy Examining Board:

Secretary Celia Jackson, Deputy Secretary Sandra Rowe and General Counsel Steven Gloe presented a plaque to Susan Sutter in appreciation for her contributions to the Board and the Department. Ms. Sutter expressed her thankfulness to the Board and Department.

The Board issued a resolution to Susan Sutter recognizing her 8 years of service to the Board and to the pharmacy profession.

Re-assignment of Susan Sutter's Board functions:

MOTION: Ms. Sutter moved, seconded by Ms. Forbes, to appoint Cynthia Benning as Credentialing Liaison, Tom Ryan as Regulatory Digest Administrator, Charlotte Rasmussen as Legislative Liaison, John Bohlman as Vice Chair and Fred Moskol as liaison to the Pharmacy Advisory Council. Motion carried unanimously.

Report regarding mileage reimbursement:

Tom Ryan explained the mileage increase for all Board members.

Speaking request – 2005 Technician Educational Forum:

MOTION: Mr. Bohlman moved, seconded by Ms. Sutter, to approve Cindy Benning's attendance at the 2005 Technician Educational Forum speaking engagement. Motion carried unanimously.

NABP Fall Educational Conference – December 2-4, 2005:

Noted.

ACPE Invitation – Evaluation of UW Madison School of Pharmacy PharmD Program:

MOTION: Ms. Benning moved, seconded by Mr. Bohlman, to approve Mike Bettiga's attendance at the ACPE Evaluation of UW Madison School of Pharmacy PharmD Program. Motion carried unanimously.

PRESCRIPTION RECORDS AND TRANSFER OF PRESCRIPTION ORDERS

Review of Clearinghouse Comments:

Mr. Black supplied written document that suggested responses to the clearinghouse report.

MOTION: Ms. Sutter moved, seconded by Mr. Bohlman, to adopt the Clearinghouse responses for rules 05-078 and Mr. Bohlman will work with Legal council on the grammar for 5 A and B, Mr. Black will check with the drafter of the Clearinghouse report on paragraph 6 and check internal cites for consistency. Motion carried unanimously.

PUBLIC HEARING

The public hearing was held regarding the repeal of Phar 7.05 (1) and (6) and to create Phar 7.055, relating to prescription records and transfer of prescription order information. No testimony was entered.

CONTROLLED SUBSTANCES THEFT AND LOSS REPORTING

Review of DEA final rule:

Mr. Black explained that the DEA rule is very specific.

Review for approval of modification to Wis. Admin. Code § PHAR 8.02 (3)(f):

Mr. Black will redraft Wis. Admin. Code § PHAR 8.02 (3)(f) and return it to the Board at a future meeting.

WIS. ADMIN. CODE § 7.04 – RETURN OR EXCHANGE OF HEALTH ITEMS

The report to the legislature is currently under review.

PATIENT CARE ALERT HURRICANE KATRINA EMERGENCY DISPENSING POLICY

MOTION: Mr. Bohlman moved, seconded by Ms. Sutter, to approve the emergency dispensing policy. Motion carried unanimously.

SCOPE STATEMENT RE: WIS. ADMIN. CODE § PHAR 450.065 REMOTE DISPENSING

The Board opted not to go forward with anticipatory rulemaking. The Secretary will be asked to seek legislative sponsorship of a bill.

**SUMMARY REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES,
ADMINISTRATIVE RULES AND LEGISLATION**

Noted.

LEGISLATIVE LIASON REPORT

Ms. Sutter delivered a report summarizing current legislative proposals.

OUT OF STATE LICENSURE

Mr. Bettiga updated the Board on the current status of this bill.

**CLARIFICATION OF EXISTING REQUIREMENTS UNDER THE CONTROLLED
SUBSTANCES ACT FOR PRESCRIBING SCHEDULE II
CONTROLLED SUBSTANCES**

The Board discussed the DEA communication and its limitations.

**PROPOSAL TO THE PHARMACY EXAMINING BOARD FROM
THE WISCONSIN PAIN INITIATIVE
JUNE DAHL AND MATT BROMLEY**

June Dahl and Matt Bromley of the University of Wisconsin joined the meeting proposing that the Board consider adoption and dissemination of a guidance document about the treatment of pain with controlled substances. Ms. Dahl and Mr. Bromley recommended the Board adopt language similar to the Texas State Board of Pharmacy statement. Mr. Black explained the prevailing legal interpretations that may pose barriers. Mr. Bohlman suggested a statement be prepared similar to the Texas Order, consistent with the previous Wisconsin Board Statement of pain policy.

MOTION: Mr. Bohlman moved, seconded by Mr. Moskol, to appoint Mr. Bohlman to work on completing a position statement on the treatment of pain with Mr. Bromley and to return it to the Board for consideration. Motion carried unanimously.

**VARIANCE REQUESTS
AURORA PHARMACY, INC.
MICHAEL BOHRNSTEDT R.PH. – MARINETTE, WI**

Mr. Black requested the variance requests to be submitted to the department separately. The request for delivery to clinic patients by a pharmacist will not need to be submitted as this is considered a transfer and consultation, and no variance is required. Further research and preparation was recommended for the automated dispensing variance proposal. The employee delivery variance must be resubmitted.

MOTION: Ms. Sutter moved, seconded by Ms. Benning, to grant a variance to Michael Bohrnstedt, R.Ph., for Aurora Pharmacy, Inc., in order to deliver to their employees. Motion carried unanimously. The variance proposal is subject to re-drafting and final review.

MOTION: Ms. Sutter moved, seconded by Ms. Benning, to deny the request to deliver to the general population by Michael Bohrnstedt, R.Ph., for Aurora Pharmacy, Inc. Motion carried unanimously.

MOTION: Ms Benning moved, seconded by Ms. Sutter, to deny the variance request for the remote dispensing machine for Michael Bohrnstedt, R.Ph., for Aurora Pharmacy, Inc. Motion carried unanimously.

**VARIANCE REQUEST - STAFFING
MALLATT PHARMACY, INC
JOHN FLINT, JR, – MADISON, WI**

MOTION: Ms. Sutter moved, seconded by Ms. Forbes, to grant a 6-1 technician ratio variance to John Flint, Jr., for Mallatt Pharmacy, Inc., license no. 8118. Motion carried unanimously.

**VARIANCE REQUEST – STAFFING
SNITEMAN PHARMACY
WILLIAM C. WEILER, R. Ph. - NEILLSVILLE, WI**

MOTION: Ms. Benning moved, seconded by Mr. Moskol, to grant the central fill variance to William C. Weiler, R.Ph., for Sniteman Pharmacy. Motion carried unanimously.

**VARIANCE RENEWAL REQUEST
NEIGHBORCARE INC
MICHELLE SCHUSTER, ATTORNEY – MADISON, WI**

Nancy Robins, Neighborcare, Inc., appeared before the Board to address the variance.

MOTION: Mr. Bohlman moved, seconded by Ms. Sutter, to grant a variance with regard to the 6-1 technician ratio to Neighborcare, Inc., 3209 Latham Drive, at its Madison location only. Motion carried unanimously.

MOTION: Mr. Bohlman moved, seconded by Ms. Sutter, to grant a dispensing variance replacing the final pharmacist verification with a bar code process utilizing InTelli.Rx software to Neighborcare, Inc., for the 3209 Latham Drive location only, and Neighborcare will need to supply the Board with a 6 month report and 12 month report to the Board. Changes to the procedure must be submitted to William Black. Should there be questions it can be brought back to the board. Motion carried unanimously.

**CONSULTATION WORK GROUP
AND
REPORT ON PHARMACY SCHOOL VISIT AND PLANNING FOR PATIENT
CONSULTATION EXAMINATION**

Dr. Barb Showers and Darwin Tichenor, Office of Education and Examinations, described a recent tour of the UW School of Pharmacy to explore the possibility of using school facilities for the practical examination. The school could only be used during the summer months, and possibly December when school is out. The school offers more space but also includes hallways, which may be a security problem. The new DRL facilities will supply the necessary security but will have less floor space. Parking for students and proctors was discussed.

Ms. Benning explained the UW Medical School may be able to assist in a review of the examination with a clinical assessment center grant to partner in developing, training and planning for the consultation examination. The School of Pharmacy is very interested in working with the Board in this venture. Ms. Sutter cautioned the Board with regard to lessening the number of examinations given. Currently examinations are given 7 times annually.

MOTION: Ms. Rasmussen moved, seconded by Mr. Bohlman, to appoint Ms. Benning to proceed with the request for the Medical Education Award. Motion carried unanimously.

**STATE ACTIVITY ADDRESSING THE REGULATION OF WHOLESALE
DISTRIBUTORS**

Noted.

INFORMATIONAL ITEMS

Noted.

REPORT ON WISCONSIN PHARMACY FORUM MEETING, AUGUST 16

Mr. Bettiga informed the Board of the next forum meeting which will be held in December, 2005.

CLOSED SESSION

MOTION: Ms. Sutter moved, seconded by Ms. Rasmussen, to convene to closed session to deliberate on case(s) following hearing (Wis. Stat. § 19.85 (1)(a)); consider closing disciplinary investigation(s) with administrative warning(s) (Wis. Stat. § 19.85 (1) (b) and 440.205); to consider individual histories or disciplinary data (Wis. Stat. § 19.85 (1) (f)); and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g)). Roll Call Vote: Charlotte Rasmussen-yes; Sue Sutter-yes; John Bohlman-yes; Georgina Forbes-yes; Michael Bettiga-yes; Cynthia Benning-yes; Fred Moskol-yes. Motion carried unanimously.

The Board convened into Closed Session at 12:00 p.m.

**RECONVENE TO OPEN SESSION TO VOTE ON ITEMS
DELIBERATED ON IN CLOSED SESSION**

MOTION: Ms. Sutter moved, seconded by Ms. Forbes, to reconvene into open session. Motion carried unanimously.

The Board reconvened into Open Session at 2:17 p.m.

**DELIBERATION OF STIPULATIONS, FINAL
DECISIONS AND ORDERS**

KURT KIESLING, R.PH.

MOTION: Ms. Sutter moved, seconded by Ms. Rasmussen, to adopt the proposed stipulation, findings of fact, conclusions of law and order in the matter of the disciplinary proceedings against Kurt Kiesling, R.Ph. Motion carried unanimously.

ROBERT L. HAMILTON, R.PH.

MOTION: Mr. Bohlman moved, seconded by Ms. Benning, to approve the proposed stipulation, findings of fact, conclusions of law and order in the matter of disciplinary proceedings against Robert L. Hamilton, R.Ph. Motion carried unanimously.

CONSIDERATION OF ADMINISTRATIVE WARNINGS AND CASE CLOSINGS

04 PHM 089

MOTION: Ms. Rasmussen moved, seconded by Mr. Bohlman, to issue the administrative warnings in the matter of disciplinary proceedings against case # 04 PHM 089. Motion carried unanimously.

05 PHM 002

Mike Berndt, DOE, and Joseph La Croix appeared before the board.

MOTION: Ms. Benning moved, seconded by Ms. Rasmussen, to withdraw the administrative warning in the matter of disciplinary proceedings against case # 05 PHM 002. Motion carried unanimously.

04-PHM-089

MOTION: Ms. Benning moved, seconded by Mr. Rasmussen, to close the case against Walgreens #04533 and Jennifer Villeneuve in case # 04 PHM 089. Motion carried unanimously.

05-PHM-002

MOTION: Mr. Bohlman moved, seconded by Ms. Benning, to close the case against Aurora Pharmacy for no violation in case 05-PHM-002. Motion carried unanimously.

REVIEW OF APPLICATIONS

MAHDI CEZAR

MOTION: Ms. Benning moved, seconded by MS. Rasmussen, to require Mahdi Cezar to take the MPJE and the patient counseling exam. Motion carried unanimously.

NANCY WOLFE

MOTION: Mr. Bohlman moved, seconded by Ms. Rasmussen, to require Nancy Wolfe to take the MPJE and patient counseling exam. Motion carried unanimously.

DOE MONITORING

MICHAEL HILLER, R.PH.

MOTION: Mr. Bohlman moved, seconded by Ms. Rasmussen, to approve three month stay with 8 hours of Pharmacist in Charge, reduction in urine screens to 72, therapy from weekly to bi-monthly for Michael Hiller, R.Ph. Motion carried unanimously.

DONALD LEETZ, R.PH.

MOTION: Ms. Benning moved, seconded by Ms. Sutter, to approve three month stay and 8 hrs of Pharmacist in Charge for Donald Leetz, R.Ph. Motion carried unanimously.

**PETITION FOR RECONSIDERATION OF BOARD DENIAL
OF PETITION FOR EXTENSION OF TIME FOR PAYMENT OF COSTS
NEIL NOESEN, R.PH.**

MOTION: Mr. Bohlman moved, seconded by Ms. Benning, to deny the petition for extension of time on the Order Fixing Costs in the matter of disciplinary proceedings against Neil Noesen, R.Ph. Motion carried unanimously.

DIVISION OF ENFORCEMENT - CASE STATUS REPORT/CASE CLOSINGS

Noted.

EXAMINATION ISSUES RECEIVED IN THE BUREAU AFTER PREPARATION OF THE AGENDA

Mr. Tichenor appeared before the Board to discuss administrative issues related to the practical examination.

The Board assigned members to report to Mr. Tichenor with regard to specific medications to be used in future examinations.

VALIDATION OF EXAM SCORES

Darwin Tichenor reported that of the 10 examinations given on September 6, 2005, 8 passed and 2 failed.

MOTION: Ms. Sutter moved, seconded by Ms. Benning, to validate the exam scores of September 6, 2005. Motion carried unanimously.

Mr. Ryan expressed the Departments' appreciation to Susan Sutter for all she has done for the board and indicated she has been a very valuable asset during her time on the board.

MOTION: Ms. Sutter moved, seconded by Mr. Bohlman, to authorize Mr. Black to sign on behalf of Mr. Bettiga all documents from today's meeting. Motion carried unanimously.

ADJOURNMENT

MOTION: Ms. Benning moved, seconded by Ms. Rasmussen, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 3:49 p.m.

Next Meeting: Oct 19, 2005